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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x  
3 UNITED STATES OF AMERICA

4 v.

18 CR 252 (LAK)  
Sentence

5 THOMAS GASSNOLA

6 Defendant

-----x

7  
8 New York, N.Y.  
September 10, 2019  
9 3:30 p.m.

10 Before:

11 HON. LEWIS A. KAPLAN

District Judge

12  
13 APPEARANCES

14 GEOFFREY S. BERMAN

United States Attorney for the  
15 Southern District of New York

16 ELI J. MARK

EDWARD DISKANT

17 ALINE R. FLODR

Assistant United States Attorneys

18 DANIEL D. KELLY

Attorney for Defendant

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1 (Case called)

2 DEPUTY CLERK: Government, are you ready?

3 MR. MARK: Yes, Ely Mark, Edward Diskant and Aline  
4 Flodr for the government. Good afternoon.

5 THE COURT: Good afternoon.

6 DEPUTY CLERK: Defendant, are you ready?

7 MR. KELLY: Yes. Daniel Kelly for the defendant.  
8 Good afternoon.

9 THE COURT: Good afternoon.

10 Mr. Kelly, have you and Mr. Gassnola had the  
11 presentence report for the necessary period?

12 MR. KELLY: Yes, your Honor.

13 THE COURT: Mr. Gassnola, have you read the  
14 presentence report and consulted with your lawyer about it?

15 THE DEFENDANT: I have, your Honor.

16 THE COURT: It will be sealed and made available to  
17 counsel in the event of an appeal. You may be seated. Are  
18 there any unresolved objections to the presentence report?

19 MR. MARK: No, your Honor.

20 MR. KELLY: No, your Honor.

21 THE COURT: I adopt the presentence report and the  
22 guideline computation and range it contains.

23 I understand the government has a motion.

24 MR. MARK: Yes, your Honor. We have a motion for the  
25 defendant to be sentenced in light of the Section 5K1.1 factors

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1 under the United States Sentencing Guidelines.

2 THE COURT: Granted.

3 I've received in relation to the sentencing the  
4 presentence report a letter from the government dated  
5 August 27, a letter on behalf of Mr. Gassnola with various  
6 attachments from Mr. Kelly which was filed September 3, and I  
7 have proposed orders of restitution.

8 Is there anything else of which I should be aware?

9 MR. MARK: No, your Honor.

10 MR. KELLY: No, your Honor.

11 THE COURT: Then I will hear you, Mr. Kelly.

12 MR. KELLY: Thank you, your Honor. Good afternoon  
13 again.

14 Your Honor, with respect to Mr. Gassnola, I just want  
15 to highlight a few things in the letters, the attachments to my  
16 submission, that I think describe Mr. Gassnola perhaps more  
17 articulately than anyone could. These are acts that  
18 Mr. Gassnola took with respect to mentoring young men in a  
19 basketball program he started in Worcester, Massachusetts some  
20 time ago. Some of these acts, your Honor, date back the better  
21 part of a decade, eight, ten years ago. I think there's a  
22 common theme in a lot of these submissions by these young men  
23 and by their parents in that Mr. Gassnola was not just a  
24 basketball coach. He took the role of coach, and viewed it as  
25 a much larger role. He viewed it as the role of a mentor. He

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1 viewed it as a role of a strong adult male voice in the lives  
2 of young men that oftentimes did not have such an voice.

3 Mr. Gassnola, as the Court may know from the presentence  
4 investigation report, did not have such a voice in his young  
5 life, which caused him some trouble early on, your Honor.

6           The submissions also detail what he's done for them  
7 outside of basketball. I think it's important to note that  
8 these young men in particular -- I am going to quote from a  
9 couple -- detail what Mr. Gassnola did for them, regardless of  
10 their role on the team. In particular was a young man who was  
11 at Williams College in Massachusetts, who stated that when he  
12 first started on Mr. Gassnola's team, he was considered a  
13 stand-out player. Shortly thereafter, the second year he  
14 became much more of a supporting role player, and as is common  
15 in AAU basketball when a coach tells you you're not going to  
16 play that much, you find another coach that tells you  
17 differently. This young man did not. And he went on to  
18 describe the relationship that he had with Mr. Gassnola was the  
19 strong reason why he did not. Mr. Gassnola's mentorship and  
20 standing outside of his role as a coach had nothing do with the  
21 success of this young man on the team, whether he was a  
22 starting player or whether he was the last player off the  
23 bench. Mr. Gassnola's mentorship continued throughout the  
24 course of that young man's adult life.

25           There's another submission by a young man why plays at

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1 I believe the University of Notre Dame who stated that Mr.  
2 Gassnola's common theme when speaking with young players was  
3 that "I'm going to be with you for the rest of your life,  
4 whether you play basketball or not."

5 There was another young man going through a tough time  
6 at age 15. This young man is 23 years old now. At age 15, one  
7 of his childhood memories seared into his memory was that of  
8 being kicked out of his home. He had no place to go. His  
9 parents asked him to leave his home. The first person he  
10 turned to, Mr. Gassnola. Mr. Gassnola is still in that young  
11 man's life, who is 23 years old.

12 Mr. Gassnola went to parent-teacher conferences for  
13 individuals who did not have fathers to do that. Mr. Gassnola  
14 was there at all of these life events and has continually kept  
15 up the communication throughout the course of these young men's  
16 lives. This predates any of the activity in this case and  
17 certainly predates any idea that Mr. Gassnola would find  
18 himself on your Honor's doorstep this afternoon.

19 He is a young man who has taken significant steps in  
20 this case as well, your Honor. The conduct is well-known. But  
21 I just want to point out a couple of things. He began  
22 cooperating with the government from the very first contact.  
23 He pled guilty early on before he was even -- to an information  
24 without having to be indicted. This is someone who gave  
25 information to the government throughout the course of the year

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1 that he was involved that they may not have already have  
2 uncovered.

3 So, your Honor, we're here asking for a probationary  
4 sentence. We're also asking that to the extent that travel  
5 restrictions can be the least prohibitive possible,  
6 Mr. Gassnola is employed with a company outside of  
7 Massachusetts. His employment also means that he has to travel  
8 to other states other than that. He finds himself frequently  
9 traveling for business. So we'd ask the Court to consider if  
10 the Court was to place him on probation or supervised release  
11 that he have the least restrictive travel restrictions  
12 possible.

13 For all those reasons, your Honor, we're asking that  
14 the defendant be sentenced to probation. Thank you.

15 THE COURT: Thank you.

16 Mr. Gassnola, is there anything you'd like to say?  
17 You have the right to speak.

18 THE DEFENDANT: I just want to say that I'm sorry for  
19 any harm that I've caused in this matter, especially to my  
20 family. It's been a long two years. My family is everything  
21 to me, and I just want to move on, and try to re-build what I  
22 had for many years and try to get back on track. Again, I'm  
23 sorry for any harm I've caused in this matter. That's it, your  
24 Honor.

25 THE COURT: All right, thank you.

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Mr. Mark.

MR. MARK: Just very briefly, your Honor. Our letter is quite detailed, and your Honor has seen Mr. Gassnola testify. Two points I think particularly bear mention, which Mr. Kelly touched on, obviously is in our letter. One was the defendant's prompt acceptance of responsibility in this case, and two the nature and importance of his cooperation.

First as his to prompt acceptance, it was immediate. His acknowledgment of wrongdoing was complete. He started proffering with the government soon after retaining Mr. Kelly and after being approached by FBI agents. He was never charged initially. And he ultimately was the first defendant in these related cases to plead guilty, and he pled guilty to both conduct that the government knew about at the time he was first approached, as well as conduct that the government only learned about because of his cooperation. The defendant spoke and talked about many payments to other families of student athletes that the government didn't know about at that time and obviously drove up the defendant's exposure under the Sentencing Guidelines.

The fact that he spoke about and met with us about conduct that we didn't know about at the time turns into the second point, which is the nature and importance of that cooperation. Through these proffer sessions, the government learned about additional payments that were the basis for a

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1 superseding indictment that was filed in the Gatto matter which  
2 reflected that the conduct in the initial complaint in the  
3 indictment was more pervasive, more extreme and existed over a  
4 period of years which was very important in shining a further  
5 light on the conduct that happened at Adidas during those  
6 periods of years.

7 And obviously his cooperation was important not just  
8 in obtaining that superseding indictment, but he testified at  
9 trial. He testified for three days, and it was a very  
10 difficult testimony, obviously, because one of the defendants  
11 in that case was a very good friend of his, James Gatto.  
12 Nonetheless, he came in and understood that from the get-go he  
13 would have to cooperate, and he'd have to cooperate fully, and  
14 he took that responsibility on. And I think both of those  
15 points are very important for the Court to consider in  
16 determining a just sentence. Thank you.

17 THE COURT: Thank you.

18 Mr. Gassnola, please rise for the imposition of  
19 sentence.

20 (Complies)

21 THE COURT: It is the judgment of this Court that you  
22 be committed to the custody of the Attorney General of the  
23 United States or his designee for a term of imprisonment of  
24 time served; that you are thereafter to serve a term of  
25 supervised release of one year; and that you pay the mandatory



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1 special assessment of \$100. You shall also pay restitution in  
2 the aggregate amount of \$342,437.75 to the payees and in the  
3 respective amounts and on the terms set forth in an order of  
4 restitution that I will sign in a few minutes.

5 The term of supervised release will be subject to the  
6 standard conditions of supervision 1 through 12, and the  
7 following special conditions:

8 First, you must provide the probation officer with  
9 access to any requested financial information.

10 Second, you must not incur new credit charges or open  
11 additional lines of credit without the approval of the  
12 probation officer.

13 And, third, you shall serve a term of home detention  
14 of two months commencing on a date set by the probation  
15 officer. While you're on home detention, you may leave only  
16 for employment that is known to the probation officer, medical  
17 care, and any other activities approved in advance by the  
18 probation officer. You shall also comply if directed by the  
19 probation officer with electronic monitoring conditions.

20 I advise you that to whatever extent you haven't  
21 waived it, you have the right to appeal from the judgment  
22 imposing this sentence. If you wish to appeal, you must file a  
23 written notice of appeal no later than 14 days after the date  
24 on which judgment is entered, which could be as soon as today.  
25 That notice of appeal has to be filed with the Clerk of the

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1 district court.

2 If you wish to appeal and you can't afford to pay the  
3 fees necessary to do so, you have the right to apply for  
4 percentages to appeal as a poor person. If that application  
5 were granted, you'd be permitted to appeal without payment of  
6 the fees. And if you couldn't afford a lawyer, a lawyer would  
7 be appointed for you at public expense.

8 You may be seated.

9 Now, counsel, I assume you've all seen the proposed  
10 form of the order of restitution, right?

11 MR. MARK: Yes, your Honor.

12 MR. KELLY: Yes, your Honor.

13 THE COURT: Any objection to it, Mr. Kelly?

14 MR. KELLY: No, your Honor.

15 THE COURT: Obviously, the sentence reflects the  
16 considerable value of Mr. Gassnola's cooperation with the  
17 government which was essential, or nearly so anyway, to making  
18 this case, and served a real public interest.

19 I should also add that the mandatory drug testing  
20 condition is suspended. I see no reason to believe there is  
21 any risk of drug abuse.

22 Anything else we need to cover, folks?

23 MR. KELLY: Not from our side, your Honor.

24 MR. MARK: No, your Honor.

25 THE COURT: OK. Thank you. (Adjourned)